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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,385	02/06/2004	Nola Keren	118098-00102	5745

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EXAMINER	
THANH, QUANG D	

ART UNIT	PAPER NUMBER
3764	

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/772,385	KEREN, NOLA	
	Examiner	Art Unit	
	Quang D. Thanh	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *4/30/04;11/12/04;*02/16/05
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed on 11/12/2004 and 02/16/2005 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it discloses only the title of each book and does not include a concise explanation of the relevance. Accordingly, the information disclosure statement is not being considered by the examiner.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 12-13 and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Kahn (6,752,772). Kahn discloses a method for treating patients having problems in motor functions (muscular tightness), said method (col. 1, lines 20-26) comprising: a) relaxing a muscle (therapeutic fingers for massaging); b) stretching the patient (automatic stretching machine); and c) fixing (fig. 22) results achieved in steps a) and b); wherein the fixing state comprises hydrotherapy by floating the patient on water

while supporting the patient under the head and coccyx (best seen in fig. 22); and further comprising additional treatment of movement therapy (water dance) or other physical therapy (col. 10, lines 62-67).

4. Claims 1, 2, 4-6 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Shimagami et al. (2005/0101886). Shimagami discloses a method for treating patients having problems in motor functions (muscular tightness), said method (pages 1-2) comprising: a) relaxing a muscle (paragraphs 20-25 including treatments 6-11); b) stretching the patient (paragraph 26 including treatment 12); and c) fixing (paragraph 27 including treatment 13) results achieved in steps a) and b); wherein step a precedes step b, and step b precedes step c (paragraphs 20-27); wherein the relaxing step comprises applying acupressure (shiatsu treatments 6-7) to points of influence; wherein acupressure is applied from a direction perpendicular to the patient's body with gentle vibration (vibrating treatment 11); wherein acupressure is applied to substantially all points of influences (treatments 6-7, 10 and 11); wherein step a, b and c are performed by a therapist (paragraph 13).

5. Claims 1, and 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Knobel (4,004,580). Knobel discloses a method for treating patients having problems in motor functions (muscular tightness), said method comprising: a) relaxing a muscle (by means of vibration, col. 1, lines 35-42); b) stretching the patient (by hanging, col. 1, lines 35-42); and c) fixing (by exercising, col. 2, lines 55-68) results achieved in steps a) and b); wherein the stretching step comprises hanging the patient on a horizontal bar 12 (fig. 1); wherein the patient's arms are substantially vertical (fig. 1); wherein the patient's

body is substantially vertical (fig. 1); wherein the patient hangs from the horizontal bar by his arms (fig. 1); wherein the patient's body does not touch the floor (fig. 1).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 3 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimagami et al.

8. Shimagami discloses the method as claimed except it is silent regarding the step of repeating the method, and perform the relaxing step about 50-60 minutes, the stretching step about 60-90 seconds, and the fixing step about 5 minutes. However, it would have been obvious to one of ordinary skill in the art at the time of invention was made to repeat to method as many time as needed in order to achieve the optimal beneficial result of the therapy, and to perform each steps of the method with a duration time as claimed, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. ***In re Boesch***, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

9. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kahn in view of Kinney (3,092,101). Kahn discloses the method as claimed including the hydrotherapy (fig. 22) but does not explicitly disclose that treatment is for cerebral palsy and is silent regarding the water of the hydrotherapy having a temperature of about 34-36 degrees C. However Kinney teaches that it is well known in the art that hydrotherapy is frequently used to provide great relief for illness such as cerebral palsy, muscular dystrophy (col. 1, lines 14-23). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to apply Kahn method in treating cerebral palsy , as suggested and taught by Kinney, and to set the water temperature at about 34-36 degrees C, for the purpose of providing an optimal comfortable temperature for the patient, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. ***In re Boesch***, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Horkey '649 teaches a wall mounted hanging bar for back stretching.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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